

## Message Text

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ORIGIN DLOS-07

INFO OCT-01 EUR-25 EA-11 IO-14 ISO-00 CG-00 AF-10 ARA-16

NEA-14 RSC-01 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-07 PA-04 PRS-01 SP-03 SS-20 USIA-15

CEQ-02 COA-02 COME-00 EB-11 EPA-04 NSF-04 SCI-06

FEA-02 ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04 INT-08

JUSE-00 OMB-01 /266 R

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IO/UNP - MR. SCULLY

DOD - MR. DUGGER

----- 118933

R 102050Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY WELLINGTON

INFO AMEMBASSY JAKARTA

AMEMBASSY MANILA

AMEMBASSY CANBERRA

AMEMBASSY LONDON

AMEMBASSY TOKYO

AMEMBASSY PARIS

AMEMBASSY MOSCOW

USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 097509

E.O. 11652: GDS

TAGS: PBOR

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SUBJECT: LOS: GNZ POSITION ON ARCHIPELAGOES

REF: (A) WELLINGTON 1160, (B) STATE 071502, (C) SYDNEY 681

1. YOUR QUERY AS TO WHETHER THERE ARE LOS ISSUES WHICH EMBASSY COULD EXPLORE WITH MFA TO OUR POSSIBLE BENEFIT IS TIMELY. WE ARE CONCERNED WITH INFLUENCING NEGOTIATIONS ON ARCHIPELAGIC ISSUE WHICH CAN CRITICALLY AFFECT U.S. SECURITY RESOURCE INTERESTS. EMBASSY WELLINGTON SHOULD INFORM GONZ OF U.S. INITIATIVES AND REQUEST ITS VIEWS ON U.S. PROPOSALS. WE BELIEVE IT WILL BE USEFUL TO ENLIST SUPPORT OF NEW ZEALAND FOR OUR FORMULATION WITH ADDED SIDE BENEFIT OF RECRUITING AN ADVOCATE WHO MAY HAVE SOME INFLUENCE WITH AUSTRALIA. AS IS CLEAR FROM REF (C), AUSTRALIA SEEMS COMMITTED TO THE ARCHIPELAGIC PRINCIPLE AND IS PREPARED TO ACCEPT A MUCH MORE RESTRICTIVE REGIME THAN ARE WE. WE ARE CONTINUING OUR ENDEAVORS TO HAVE AUSTRALIA MODIFY ITS POSITION OR AT LEAST SUPPORT U.S. EFFORTS TO REACH ACCOMMODATION WITH GOI. WE BELIEVE THE SUPPORT OF TWO MARITIME STATES SUCH AS AUSTRALIA AND NEW ZEALAND FOR EXCESSIVELY RESTRICTIVE ARCHIPELAGIC PRINCIPLES COULD DO GREAT DAMAGE TO NAVIGATION FREEDOMS ESSENTIAL TO FREE MARITIME TRADE. THE STRATEGIC IMPLICATIONS ARE EVEN MORE ACUTE. EMBASSY SHOULD DRAW ON FOLLOWING POINTS.

2. U.S. DELEGATION LED BY JOHN NORTON MOORE, CHAIRMAN, NSC INTERAGENCY TASK FORCE ON LOS AND DEPUTY SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR LOS CONFERENCE, MET WITH INDONESIAN DELEGATION IN JAKARTA ON MARCH 25 AND 26. DISCUSSIONS WERE CORDIAL AND EACH SIDE APPRECIATED NECESSITY TO ACCOMMODATE ARCHIPELAGIC AND NAVIGATIONAL INTERESTS.

3. IT WAS AGREED THAT FORUM FOR ACHIEVING MUTUAL GOALS SHOULD BE COMPREHENSIVE LOS TREATY GIVING LEGAL AFFIRMATION TO ARCHIPELAGIC PRINCIPLE AND LEGAL PROTECTION FOR VITAL NAVIGATIONAL INTERESTS OF MARITIME STATES. TIMING OF CARACAS CONFERENCE MADE EARLY UNDERSTANDING ESSENTIAL. IF AT ALL POSSIBLE TREATY TEXTS SHOULD BE AGREED BEFORE START OF CARACAS CONFERENCE.

4. UNITED STATES COULD SUPPORT ARCHIPELAGIC PRINCIPLE  
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AS UNIVERSALLY ACCEPTED LEGAL CONCEPT IF THERE WERE (1) REASONABLE LIMITATION OF ARCHIPELAGIC PRINCIPLE TO ISLAND NATIONS PER OBJECTIVE DEFINITIONAL CRITERIA; (2) FULL PROTECTION OF TRANSIT THROUGH AND OVER ARCHIPELAGO, AND (3) INDONESIAN SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION.

5. UNITED STATES DISTRIBUTED FOLLOWING PAPERS ON (A)

ELEMENTS CONCERNING DEFINITION OF ARCHIPELAGIC STATE AND  
(B) GUARANTEES TO ARCHIPELAGIC STATE COVERING ARCHIPELAGIC  
TRANSIT.

(A) ELEMENTS CONCERNING DEFINITION OF ARCHIPELAGIC STATE  
(1) AN ARCHIPELAGIC ISLAND STATE WHOSE COMPONENT ISLANDS  
AND OTHER NATURAL FEATURES FORM A SINGLE INSTRINSIC  
GEOGRAPHICAL, CULTURAL, AND ECONOMIC AND POLITICAL ENTITY  
MAY DRAW ARCHIPELAGIC LINES CONNECTING OUTER POINTS OF THE  
OUTERMOST ISLANDS OF THE ARCHIPELAGO PROVIDED THAT SUCH  
LINES ENCLOSING THE ENTIRE ISLAND GROUP DO NOT ENCLOSE AN  
AREA OF WATER WHICH WILL RESULT IN A WATER-TO-LAND RATIO  
OF GREATER THAN 5 TO 1 AND PROVIDED THAT THE MAXIMUM LENGTH  
OF ANY SUCH LINES SHALL NOT EXCEED 80 NAUTICAL MILES.

(2.) WATERS WITHIN ARCHIPELAGIC LINES SHALL BE DESIGNATED  
ARCHIPELAGIC WATERS.

(3.) FOR THE PURPOSE OF COMPUTING THE WATER-TO-LAND RATIO  
IN PARA 5, LAND AREAS SHALL INCLUDE WATERS WITHIN REEFS  
AND LAGOONS OF ATOLLS.

(B) GUARANTEES TO THE ARCHIPELAGIC STATE COVERING  
ARCHIPELAGIC TRANSIT:

(1) THE TREATY WOULD SPECIFY THAT THE RIGHT OF NAVIGATION  
IS A RIGHT OF TRANSIT THROUGH AND OVER THE ARCHIPELAGO--  
THAT IS, A RIGHT OF UNIMPEDED ARCHIPELAGIC TRANSIT OF THE  
ARCHIPELAGO--IN THE NORMAL MODE FOR VESSELS AND AIRCRAFT.

(2) THE TREATY WOULD SPECIFY THAT THE TRANSITING VESSEL  
OR AIRCRAFT SHOULD TRANSIT THE ARCHIPELAGO WITHOUT UN-  
REASONABLE DELAY.  
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(3) THE TREATY WOULD SPECIFY THAT TRANSITING VESSELS OR  
AIRCRAFT SHALL REFRAIN FROM ANY THREAT OR USE OF FORCE IN  
VIOLATION OF THE CHARTER OF THE UNITED NATIONS AGAINST THE  
TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENT OF THE  
ADJACENT ARCHIPELAGO STATE.

(4) THE TREATY COULD PROVIDE THAT ARCHIPELAGIC TRANSIT WOULD  
TAKE PLACE IN DESIGNATED TRANSIT AREAS. SUCH TRANSIT AREAS  
WOULD:

(A) INCLUDE ALL NORMAL TRANSIT ROUTES THROUGH ARCHIPELAGIC  
WATERS, AND WITHIN SUCH ROUTES ALL NORMAL NAVIGATIONAL  
CHANNELS, AND

(B) INCLUDE AN AREA WHICH AT ALL POINTS IS NOT LESS THAN THE NARROWER OF:

(I) 80 PERCENT OF THE AREA BETWEEN THE NEAREST POINTS OF LAND ON THE MAIN ISLAND; I.E., NOT DRYING ROCKS OR SHOALS, OR

(II) 100 NAUTICAL MILES.

(5) THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGIC STATE COULD REQUIRE NOTIFICATION FOR ANY VESSEL OR AIRCRAFT DEPARTING FROM THESE TRANSIT AREAS BECAUSE OF FORCE MAJEURE DISTRESS OR OTHER CIRCUMSTANCES. (SOME PROVISION WOULD BE MADE TO PROTECT SHIPPING (E.G., SHALLOW DRAUGHT VESSELS) OUTSIDE TRANSIT AREAS).

(6) THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGIC STATE MAY WITHOUT DISCRIMINATION AMONG SHIPS, TEMPORARILY SUSPEND NAVIGATION IN CERTAIN AREAS OUTSIDE ARCHIPELAGIC TRANSIT AREAS, IF SUCH SUSPENSION IS NECESSARY TO ITS SECURITY. SUCH SUSPENSION WOULD BE DULY PUBLISHED.

NOTE: THIS IS AN EFFORT TO SET OUT GENERAL PRINCIPLES GUARANTEEING A BALANCE BETWEEN THE INTERESTS OF ARCHIPELAGO STATES AND THE INTERESTS OF TRANSITING STATES. THESE PRINCIPLES WOULD BE REFLECTED IN A LAW OF THE SEA TREATY  
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AND DO NOT NECESSARILY STATE APPROPRIATE TREATY PROVISIONS AS WRITTEN. THE PRECISE METHOD OF DELINEATION OF TRANSIT AREAS UTILIZING THESE PRINCIPLES WOULD BE DETERMINED AFTER FURTHER CONSULTATIONS.

6. INDONESIA WAS GENERALLY POSITIVE ABOUT SUGGESTED U.S. SOLUTIONS WHILE STRESSING NEED FOR CONSULTATIONS WITH OTHER ARCHIPELAGIC CLAIMANTS BEFORE MAKING COMMITMENTS. THEY CLEARLY STATED PROPOSED U.S. DEFINITION OF ARCHIPELAGO MET INDONESIAN CONCERNS. IT WAS AGREED THAT INDONESIANS WOULD APPROACH PHILIPPINES AND FIJI FOR REACTIONS WHILE U.S. WOULD INFORM OTHER MARITIME STATES. EACH AGREED TO HOLD EARLY CONSULTATIONS AND TO EXCHANGE INFORMATION ON OUTCOME OF CONSULTATIONS.

7. INDONESIANS HAVE SINCE HELD TALKS WITH GOP. WE HAVE OUTLINED U.S. PROPOSALS TO SEVERAL MARITIME STATES INCLUDING USSR, JAPAN, AUSTRALIA, UK, AND FRANCE.

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW OF THE SEA, DIPLOMATIC DISCUSSIONS, MEETING REPORTS, FOREIGN POLICY POSITION  
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**Copy:** SINGLE  
**Draft Date:** 10 MAY 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** GarlanWA  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
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**Drafter:** OESKIN:LB  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
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**Original Handling Restrictions:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** (A) WELLINGTON 1160, (B) STATE 07150, 2,(C)SYDNEY 681  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** GarlanWA  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 24 APR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <24 APR 2002 by kellew0>; APPROVED <11 FEB 2003 by GarlanWA>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LOS: GNZ POSITION ON ARCHIPELAGOES  
**TAGS:** PBOR, NZ, US  
**To:** WELLINGTON  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005